

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

HOWARD KAPLAN,)	
Plaintiff,)	
)	
)	
v.)	CIVIL ACTION NO. 104-CV-10856-MEL
)	
WEND MANAGEMENT, INC.,)	
WENDY'S OLD FASHIONED)	
HAMBURGERS OF NEW YORK,)	
Defendants.)	
)	

**JOINT MOTION TO CONTINUE THE DATE OF
THE SCHEDULING CONFERENCE**

The parties respectfully move the Court to reschedule the scheduling conference to the week of April 25, 2005. As reasons therefore, the parties state that Plaintiff's counsel, Rebecca G. Pontikes, has a commitment in another case pending in the Delaware Bankruptcy Court which that court is unable to reschedule. The parties request a continuance of this length due to Attorney Pontikes' vacation from March 5 through March 22 and longstanding depositions scheduled for the remaining two weeks of March.

Concurrently with this Joint Motion, the parties submit their Joint Pre-Trial Statement. The schedule currently reflected in the Joint Pre-Trial Statement assumes the scheduling conference will be held on March 2, 2005. In the event the Court grants the parties' Joint Motion, the parties further request leave to file an amended Joint Pre-Trial Statement.

Respectfully submitted,

Plaintiff,
By his attorneys,

/s/ Rebecca G. Pontikes
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Rebecca G. Pontikes, BBO#637157
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Defendants,
By their attorneys,

/s/ Mathew P. Barry
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DATE: February 23, 2005